

REMARKS

Applicants respectfully request reconsideration of the rejections set forth in the Office Action mailed on March 10, 2003. All claims have been rejected. Claims 49-57, 60, 61, and 63-66 are now pending.

Claim amendments were made to better define one embodiment of the invention, notwithstanding the Applicants' belief that the unamended claims would have been allowable, without acquiescing to any of the Examiner's arguments, and without waiving the right to prosecute the unamended (or similar) claims in another application, for the purpose of furthering Applicants' business goals and expediting the patent application process in a manner consistent with the PTO's Patent Business Goals. None of the amendments to the claims is related to the statutory requirements of patentability unless expressly stated so herein.

The comments in the Office action are now addressed in turn.

Specification

Applicants acknowledge the insertion of the appendix into the specification. The disclosure has been objected to because the inserted appendix is not in compliance with the letter size requirements of 37 C.F.R. §1.84(d). Although these pages provide additional exemplification of the invention, Applicants believe that they are redundant to, for example, page 41 of the Specification. As such, these pages have been deleted from the specification herein.

Rejections under 35 U.S.C. §112

Claims 49-55 and 66 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and claim the invention. Applicants thank the Examiner for the suggestions as how to clarify the claims and have amended them accordingly. Applicants request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 49-57, 60, 61, and 63-65 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Biodx, Weaver et. al., Pauwels, and Weinstein or Biodx, Singhvi, Pauwels and Weinstein and further in view of Sunblad. Claims 49 and 66 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Biodx, Weaver, Pauwels, and Weinstein or Biodx, Singhvi, Pauwels, and Weinstein further in view of Sundbland and further in view of Rojanasakul. These rejections are respectfully traversed as applied to the amended claims.

These references have been discussed previously and, in the interests of compact prosecution, Applicants will not reiterate the discussion here, but will instead focus on the Office's interpretation of the teachings of Pauwels. Specifically, the Office maintains that Pauwels shows on page 107 a combined analysis of 15 parameters and thus, rectifies the deficiencies of BIODX. Applicants respectfully disagree.

Pauwels does include a list of various parameters. However, contrary to the claimed invention, Pauwels determines and analyzes these parameters on a cell line by cell line basis. See, for example Figure 1 wherein the results for the MXT cell line is separately shown from the J82 cell line and from the T24 cell line. Likewise, Figure 2 shows the results of separate analyses of cells under various conditions. Pauwels does not teach or suggest that it would be useful, or even desirable, to combine these parameters across multiple cell lines and to analyze the resulting composite "parameter". The claimed invention requires the analysis of multiple cells from multiple cell lines. The information from these multiple cell lines is then combined to produce a composite fingerprint or statistical profile. This is simply not taught nor suggested by Pauwels.

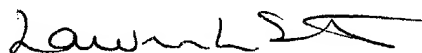
The Office also notes that Pauwels describes the use of principal component analysis. However, as indicated above, Pauwels teaches the use of the analysis based on a single cell line. Figure 3 shows the analysis using the MXT cell line. Figure 4 shows the analysis with the J82 cell line. Figure 5 shows the analysis using the T24 cell line. The cited art, either alone or in combination, does not teach the use of principal component analysis (or other statistical analyses) based on a plurality of a cells of a plurality of different cell types.

Accordingly, Applicants believe that Biodx taken singly or with any combination of the cited references neither teaches nor reasonably suggests the invention as claimed herein. Applicants respectfully request that the rejections be withdrawn.

Conclusion

The Applicant respectfully maintains that all pending claims are in condition for allowance. Therefore, the Applicant respectfully requests a Notice of Allowance for this Application from the Examiner. Should any unresolved issues remain, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,
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